

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

CRIMINAL NO. 1:04CR70

UNITED STATES OF AMERICA)
)
)
VS.) O R D E R
)
)
THOMAS LESTER KETELSEN)
)

THIS MATTER is before the Court on the Defendant's motion for a "nunc pro tunc Order Correcting and/or Amending the Judgement (sic) and Commitment (sic) Order of April 15, 2005," filed May 9, 2008.

Defendant asks the Court to "correct" or "amend" his criminal judgment herein to reflect that his sentence was imposed under the "old law," i.e., his sentence was imposed prior to the effective date of the Guidelines or the Sentencing Reform Act of 1984. Defendant concedes that this is a "novel" issue, and knows of no case in any court that has held this argument to be valid; in fact, there is none.¹

¹ Defendant alleges that other prisoners have made similar motions and "their respective sentencing courts have given reductions in the amount of the ultimate sentence imposed for their efforts." **Defendant's Motion, at 4.** However, he provides no citations to those opinions. In

IT IS, THEREFORE, ORDERED that the Defendant's motion to correct or amend his criminal Judgment herein is **DENIED**.

Signed: July 18, 2008



Lacy H. Thornburg
United States District Judge



addition, he argues that the Supreme Court's decision in *United States v. Booker*, 543 U.S. 220 (2005), "revived the sentencing schemes in place prior to the adoption of the [Guidelines]." *Id. at 3.* This argument is totally without merit.